

Sub  
DI  
Cont. 2

wherein said fragment has a nucleic acid sequence identity of at least 80% based on the Clustal method of alignment when compared to a nucleic acid as set forth in SEQ ID NOS: 1, 58 or 59, or a functionally equivalent subfragment thereof, or the reverse complement of either the fragment or subfragment, (b) an isolated nucleic acid fragment comprising a corn oleosin promoter wherein said promoter can be full length or partial and said promoter: (1) comprises a nucleotide sequence having a sequence identity of at least 80% based on the Clustal method of alignment when compared to the nucleotide sequence in any of SEQ ID NOS: 19 or 38-49 or (2) the isolated nucleic acid fragment comprising a full length or partial corn oleosin promoter hybridizes to the nucleotide sequence set forth in SEQ ID NOS: 19 or 38-49 under moderately stringent conditions, operably linked to suitable regulatory sequences, and (c) a shrunken 1 intron/exon, operably linked to suitable regulatory sequences; wherein expression of the chimeric gene results in an altered corn oleic acid phenotype, and

further wherein the corn grain has an oil content in the range from about 6% to about 10% on a dry matter basis and further wherein said oil is comprised of not less than 60% oleic acid of the total oil content of the seed.

#### Remarks

Applicants hereby affirm the election of Group IX, now claims 172-176, for further prosecution in the subject application. It is understood that all of SEQ ID NO:19 or 38-49 will be considered as designated promoter fragments since SEQ ID NO:38-49 are merely subfragments of SEQ ID NO:19. In addition, SEQ ID NO:9 was elected with respect to the restriction concerning method utilizing transgenic plants requiring SEQ ID NO:9 and 11. This affirmation is subject to Applicants' right to pursue the nonelected subject matter in a divisional application or applications pursuant to 35 USC §121.

A version with markings to show changes made with respect to the abstract, specification, claims and title accompany this response.

Regarding the Information Disclosure Statement, it is noted that copies of all references cited on the Information Disclosure Statements accompanied those disclosures. It appears that many of the references may have been lost or misplaced. Pursuant to the Examiner's request, additional copies of the non-patent references previously cited (and copies previously submitted) accompanied Supplemental Preliminary Amendment dated March 30, 2001 that was hand carried to the Examiner. Since there seems to be some confusion, submitted herewith are copies of each reference that still seems to be missing from the file.

Claims 172-176 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Concern has been raised over the term "carcass quality" on